

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

UNITED STATES OF AMERICA

v.

JAMES EARL FAY

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NO. 6:08CR

102.1

INDICTMENT

THE UNITED STATES GRAND JURY CHARGES:

COUNT 1

VIOLATION: 26 U.S.C. 5861(f)
[Unlawful Making of Firearm]

On or about September 9, 2008, in Gregg County, Texas, in the Eastern District of Texas, JAMES EARL FAY, Defendant herein, did then and there knowingly make a firearm, to wit: a destructive device, to wit: an explosive and incendiary bomb, in violation of Title 26, United States Code, Sections 5822, 5861(f) and 5871.

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

DEC 2 - 2008

DAVID J. MALAND, CLERK

BY

DEPUTY _____

COUNT 2

VIOLATION: 26 U.S.C. 5861(d)
[Possession of Unregistered Firearm]

On or about September 9, 2008, in Gregg County, Texas, in the Eastern District of Texas, JAMES EARL FAY, Defendant herein, did then and there knowingly possess a firearm, to wit: a destructive device, to wit: an explosive and incendiary bomb, which was not registered to him in the National Firearms Registration and Transfer Record, in violation of Title 26, United States Code, Sections 5841, 5861(d) and 5871.

COUNT 3

VIOLATION: 26 U.S.C. 5861(d)
[Possession of Unregistered Firearm]

On or about September 9, 2008, in Gregg County, Texas, in the Eastern District of Texas, JAMES EARL FAY, Defendant herein, did then and there knowingly possess a firearm, to wit: a 12-gauge weapon made from a Savage Arms Revelation Model 350 shotgun, serial number A904542, with an overall length of less than 26 inches and a barrel length of less than 18 inches, which was not registered to him in the National Firearms Registration and Transfer Record, in violation of Title 26, United States Code, Sections 5841, 5861(d) and 5871.

COUNT 4

VIOLATION: 18 U.S.C. 922(k)
[Possession of Firearm With Obliterated
Serial Number]

On or about September 9, 2008, in Gregg County, Texas, in the Eastern District of Texas, JAMES EARL FAY, Defendant herein, did then and there knowingly possess a firearm, to wit: a Intratec Tec-22 pistol, that had been shipped and transported in interstate commerce from which the manufacturer's serial number had been removed, altered and obliterated, in violation of Title 18, United States Code, Sections 922(k) and 924(a)(1)(B).

NOTICE OF INTENTION TO SEEK CRIMINAL FORFEITURE

**Criminal Forfeiture Pursuant to
18 U.S.C. § 924(d), 26 U.S.C. § 5872 and 28 U.S.C. § 2461**

As a result of committing the felony offenses alleged in Counts 1-4 of this Indictment, Defendant shall forfeit to the United States of America, pursuant to 18 U.S.C. § 924(d), 26 U.S.C. § 5872 and 28 U.S.C. § 2461, all firearms and any and all associated ammunition subject to forfeiture based on the aforementioned statutes, including, but not limited to, the following:

1. **12-gauge weapon made from a Savage Arms Revelation Model 350 shotgun, serial number A904542, with an overall length of less than 26 inches and a barrel length of less than 18 inches;**
2. **Intratec Tec-22 pistol with obliterated serial number; and**
3. **Unregistered, unserialized destructive device.**

By virtue of the commission of the felony offenses charged in this Indictment by Defendant, any and all interest Defendant has in the above-described firearms and any and all associated ammunition is vested in the United States and hereby forfeited to the United States pursuant to 18 U.S.C. § 924(d), 26 U.S.C. § 5872 and 28 U.S.C. § 2461.

A TRUE BILL

12/2/08
Date:

RA
GRAND JURY FOREPERSON

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72 L

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NOTICE OF PENALTY

COUNTS 1-3

VIOLATION: 26 U.S.C. § 5861

PENALTY: A fine of not more than \$10,000; imprisonment for not more than ten (10) years;
or both. A term of supervised release of not more than three (3) years.
18 U.S.C. § 5871.

SPECIAL ASSESSMENT: \$100.00

COUNT 4

VIOLATION: 18 U.S.C. § 922(k)

PENALTY: A fine of not more than \$250,000; imprisonment for not more than five (5) years;
or both. A term of supervised release of not more than three (3) years.
18 U.S.C. § 924(a)(1).

SPECIAL ASSESSMENT: \$100.00